



GENERAL ORDER

<u>NUMBER</u> 400.38	
<u>EFFECTIVE DATE</u> October 8, 2018	
<u>SUBJECT</u> Body Worn Camera Program	<u>NUMBER OF PAGES</u> 14
<u>DISTRIBUTION</u> ALL Personnel	<u>SUPERSEDES</u> 1/20/17
<u>CALEA REFERENCE</u> 41.3.8	<u>OTHER REFERENCE</u> Illinois Officer-Worn Body Camera Act (50 ILCS 706/10); Freedom of Information Act (FOIA) (5 ILCS 140/1)
<u>AUTHORITY</u>	Loren Marion III Interim Chief of Police

I. PURPOSE

This order establishes the Body Worn Camera (BWC) program, and outlines the BWC policies and procedures to be followed.

II. POLICY

The department is committed to protecting the safety and welfare of the public as well as its officers. Recordings from the BWC can provide officers with an invaluable instrument to enhance criminal prosecution. Additionally, they can protect officers and citizens through the objective documentation of interactions between commissioned officers and the public. Furthermore, the use of BWC can be utilized to improve citizen's relations and customer service.

The department recognizes that the BWC may not capture exactly what the officer sees and hears, or what an officer senses or experiences. The recorded images may not provide the totality of the circumstances that drives the officer's response to a particular situation.

Officers issued a BWC will use it pursuant to this directive.

A. Training

1. All officers shall receive training on the functionality, current law, and department policy regarding their use.

B. Body Worn Camera Operational Summary

1. The BWC is manually activated. Once activated, the BWC automatically records the 30 seconds prior to camera activation. At the conclusion of an incident, officers shall manually disengage all recording processes.
2. Officers shall announce to the individual(s) that they are being recorded as soon as practical.
3. Permitted to record individuals:
 - a. In the public way or in public view.
 - b. In private residences or in other places where a reasonable expectation of privacy exists and there is a lawful reason for the presence of law enforcement officers.
4. Will record during (50 ILCS 706/10):
 - a. Routine calls for service.
 - b. Investigatory stops.
 - c. Traffic stops.
 - d. Foot and vehicle pursuits.
 - e. Emergency driving situations.
 - f. Responses to incidents in-progress.
 - g. High-risk situations, including search warrants.
 - h. Situations that may enhance the probability of evidence-based prosecution.
 - i. Situations that the officer, through training and experience, believes to serve a proper police purpose, for example, recording the processing of an uncooperative arrestee.
 - j. Any encounter with the public that becomes adversarial after the initial contact.
 - k. Any other instance when enforcing the law.

5. Permitted to disengage recording when:
 - a. Requested by a victim of a crime.
 - b. Requested by a witness of a crime or a community member who wishes to report a crime.
 - c. While interacting with a confidential informant.
6. Prohibited Recordings
 - a. Locations where a reasonable expectation of privacy exists, such as dressing rooms or restrooms, unless required for capturing evidence.
 - b. Sensitive exposures of private body parts, unless required for capturing evidence.
 - c. Strip searches will not be recorded.
 - d. Personal activities or other commissioned officers during routine, non-enforcement-related activities.
 - e. Any court related matter, to include pre-trial conferences, depositions, or any other activity in the courtroom, unless circumstances warrant said use.
 - f. Inside medical facilities, except when a situation arises that the member believes to serve a proper police purpose.
 - g. The surreptitious audio recording of a private conversation.

III. DEFINITIONS

- A. *Surreptitious*: Obtained or made by stealth or deception, or executed through secrecy or concealment (720 ILCS 5/14-1).
- B. *Private Conversation*: Any oral communication between two or more persons, whether in person or transmitted between the parties by wire or other means, when one or more of the parties intended the communication to be of a private nature under circumstances reasonably justifying that expectation. A reasonable expectation shall include any expectation recognized by law, including, but not limited, to an expectation derived from a privilege, immunity, or right established by common law, Supreme Court rule, or the Illinois or United States Constitution (720 ILCS 5/14-1).

- C. *Community Caretaking Function:* A task undertaken by a law enforcement officer in which the officer is performing an articulable act unrelated to the investigation of a crime.
- D. *Buffering Mode:* in buffering mode, the Body Worn Camera continuously loops the video recording capturing 30 seconds of pre-event video. Audio is not recorded in buffering mode. The BWC is considered off while in buffering mode as no digital record exists until event mode is activated.
- E. *Event Mode:* A recording mode in which audio and video is recorded throughout activation. The BWC is considered on when in event mode.
- F. *Minor Traffic Offense:* a petty offense, a business offense, or Class C misdemeanor under the Illinois Vehicle Code or similar provision of a municipal or local ordinance.
- G. *Business Offense:* A petty offense for which the fine is in excess of \$1,000.

IV. PROCEDURES

- A. BWC Program Overview
 - 1. All commissioned officers will be issued a BWC and will be trained prior to utilizing the BWC and associated systems.
 - 2. Officers will be assigned a specific BWC that will be utilized by that officer only, and shall follow the provisions of this directive when assigned a BWC.
 - 3. All Commissioned officers are mandated to utilize a BWC in accordance with this directive when assigned a camera, including while working off-duty employment and wearing articles of clothing, a badge, tactical gear, gun belt, a patch, or other insignia that he or she is a Peoria police officer.
 - 4. If an officer assigned a BWC is in a vehicle equipped with an in-car video system, the member will follow both the In-Car Video Systems directive and this directive.
 - 5. An officer who is utilizing a properly functioning BWC while also utilizing an in-car video system is not required to utilize the in-car microphone belt transmitter.
 - 6. A prisoner transport officer while utilizing a properly functioning BWC may cease BWC recording while in transit to or from a prisoner transport, or the jail. However, the prisoner transport officer will utilize the BWC in accordance with this directive, and the In-Car Video Systems directive at all other times while handling in custody persons outside of the vehicle.

7. No officer may hinder or prohibit any person who is not a law enforcement officer, from recording a law enforcement officer in the performance of his or her duties, in a public place, or when the officer has no reasonable expectation of privacy.

The unlawful confiscation or destruction of the recording medium of a person who is not a law enforcement officer may result in potential criminal penalties in accordance with the Illinois Criminal Code, as well as may be subject to departmental discipline pursuant to General Order 200.02 (Discipline), which could include up to termination. However, an officer may take reasonable action to maintain safety and control, secure crime scenes and accident sites, protect the integrity and confidentiality of investigations, and protect the public safety and order.

B. Equipment

Officers will use only department-issued BWCs. Recordings made from the BWC will be maintained on the Digital Evidence Storage (DES) server—a storage and retrieval system. The BWC records both video and audio.

The recordings are stored and viewed on the DES. The DES is a secured environment with all access tracked by individual user credentials. Commissioned officers are directed not to share their unique access credentials with other users.

C. Recording Guidelines

1. Initiating the recording

Upon initiating the recording, commissioned officers will announce to the individual(s) that they are being recorded. If exigent circumstances exist which prevent the member from providing notice, notice must be provided as soon as practicable.

EXAMPLE: “The police camera is operating and you are being audibly and visually recorded.”

2. When to record

Commissioned officers are permitted to record individuals in the following circumstances:

- a. If they are on the public way or in public view.
- b. In private residences or in other places where a reasonable expectation of privacy exists and there is a lawful reason for the presence of law enforcement officers.

- c. During routine calls for service.
3. Activating the camera
- a. Officers assigned a BWC will keep it in the "buffering" mode during their shift.
 - b. In order to begin recording, officers need to activate the system to "event" mode.

When in buffering mode, the camera captures video only; no audio is captured and the video is not recorded to permanent memory. When the event mode is activated, the previous 30 seconds of captured video is recorded to permanent memory and the audio feature is initiated.

- c. Unless exigent circumstances exist, officers will activate the system to "event" mode to record an entire on-scene incident for situations including, but not limited to:
 - 1) Routine calls for service.
 - 2) Investigatory stops.
 - 3) Traffic stops.
 - 4) Foot and vehicle pursuits.
 - 5) Emergency driving situations.
 - 6) Emergency vehicle responses to in-progress or just-occurred dispatches where fleeing suspects or vehicles may be captured on video leaving the crime scene.
 - 7) High-risk situations, including search warrants.
 - 8) Situations that may enhance the probability of evidence-based prosecution.
 - 9) Situations that the officer, through training and experience, believes to serve a proper police purpose, for example, recording the processing of an uncooperative arrestee.
 - 10) Any encounter with the public that becomes adversarial after the initial contact.

- 11) Any other instance when enforcing the law.

Officers responding as "assist units" will active the BWC for all of the above-listed incidents, unless exigent circumstances exist.

4. Disengaging event mode

- a. During the recording of an incident, unless exigent circumstances exist, officers will not disengage the BWC until the entire incident has been recorded or when further recording of the incident will not serve a proper police purpose. In the event of an arrest, the incident is likely concluded when the subject is no longer in the custody of the officer.
- b. Officers will verbally state the justification of any disengagement, including requests from the individuals listed in section 4c below, of the BWC system prior to the entire incident being recorded before disengaging the BWC, unless impractical or impossible.
- c. Officers will disengage event mode of this directive when:
 - 1) Requested by a victim of a crime.
 - 2) Requested by a witness of a crime or a community member who wishes to report a crime.
 - 3) The officer is interacting with a confidential informant.

Unless impractical or impossible, the officer will ensure the request to turn off the camera is made on the recording.

- d. The officer may continue to record or resume recording a victim or witness:
 - 1) If exigent circumstances exist; or
 - 2) If the officer has reasonable articulable suspicion that a victim or witness or confidential informant has committed or is in the process of committing a crime.

The officer will indicate on the recording the reason for continuing to record despite the request of the victim or witness, unless impractical or impossible.

5. Failure to record

In instances when an officer failed to record an event, the officer shall document the event by initiating the BWC to event mode and stating the type of incident and reason for not recording.

6. Prohibited Recordings

The BWC will **NOT** be used to record:

- a. In locations where a reasonable expectation of privacy exists, such as dressing rooms or restrooms, unless required for capturing evidence.
- b. Sensitive exposures of private body parts, unless required for capturing evidence.

Commissioned officers will not engage the BWC to record strip searches.

- c. Personal activities or other commissioned officers during routine, non-enforcement-related activities.
- d. Any court related matter, to include pre-trial conferences, depositions, or any other activity in the courtroom, unless circumstances warrant said use.
- e. Inside medical facilities, except when a situation arises that the member believes to serve a proper police purpose.

Officers will be aware of patient privacy rights when in hospital settings and follow the procedures when disengaging the BWC.

D. Operational Procedures

1. Beginning Tour of Duty

- a. Officers will visually and physically inspect the BWC and ensure that it is fully charged and operational.
- b. Securely attach the BWC to the front of the officer facing forward with an unobstructed view that provides for the effective recording of an incident.
- c. Keep the BWC on buffering mode prior to leaving the station.

Officers will immediately notify a supervisor if, at any time, the BWC is missing, lost, inoperable, or damaged.

2. During Tour of Duty

- a. Record events consistent with this directive.
- b. Engage their BWC while responding to incidents as an assist unit.
- c. Complete and submit all necessary reports prior to the end of their shift for all video that should be flagged pursuant to this directive.

Officers may review the BWC recording of an incident prior to writing any report related to the incident. The officer will document this fact in the narrative portion of the report.

3. Flagging Videos

When an officer has utilized a BWC to capture video and that video is to be flagged as evidence or for other purposes, officers shall complete the ADSI "Video Flag" section within the person screen of ADSI.

Additionally, officers will flag videos through either the use of the BWC smart phone mobile application, or through any desktop computer located within the department through the DES.

An encounter must be flagged in the DES when:

- a. The encounter resulted in a detention or an arrest, excluding traffic stops which resulted in only a minor traffic offense or business offense.
- b. The officer discharged his or her firearm or used force during the encounter.
- c. Death or great bodily harm occurred to any person in the recording.
- d. A supervisor, prosecutor, defendant, or court determines that the encounter has evidentiary value in a criminal prosecution.
- e. A complaint regarding a department member has been filed.
- f. The officer is the subject of an internal investigation or otherwise being investigated for possible misconduct.

- g. The recording officer requests that the video be flagged for official purposes related to his or her official duties.

4. Conclusion of Tour of Duty

Place the BWC in a slot on one of the docking stations for uploading of captured media to the DES and charging of the power unit.

E. Supervisor Responsibilities

1. Shift Supervisors

Supervisors assigned to oversee officers using a department-issued BWC shall ensure the following:

- a. Commissioned officers are utilizing the BWC consistent with this directive.
- b. The distribution, charging, flagging, and uploading of the BWCs are consistent with this directive.
- c. Officers working more than one shift consecutively are issued a spare BWC prior to the start of the officer's second shift. Supervisors will also ensure the spare BWC is returned and docked pursuant to this directive.
- d. Technical Services is contacted whenever any officer is unable to use the BWC or download digitally recorded data due to technical problems.
- e. An investigation is initiated and necessary reports are completed when notified of a missing, lost, or damaged BWC.
- f. Officers who reviewed a BWC recording prior to writing an arrest report document this fact in the narrative portion of the arrest report.
- g. When a supervisor becomes aware that a recorded incident has the propensity to generate community interest, the supervisor shall review only those recordings relevant to their investigative scope and conduct further investigation that he/she deems appropriate. The supervisor is responsible for forwarding the information via the chain of command.

2. Technical Services Lieutenant

- a. The lieutenant, or his designee, will randomly review the recordings to ensure digitally recorded data is properly downloaded and flagged.
- b. Will allow authorized officers and any authorized outside law enforcement agency personnel access, limited to their specific role, to view recordings on the DES that relate to their official duties.
- c. Is responsible for assigning, and replacing BWCs.
- d. Will conduct quarterly audits to ensure compliance with the policy and procedures of this directive consistent with their standard operating procedures.

3. Professional Standards

Will establish procedures to manually flag related video when a complaint regarding a department member has been filed, or when the officer is the subject of an internal investigation or otherwise being investigated for possible misconduct.

F. Officer Involved Shooting Or Other Incident That Involves Bodily Harm To A Person

1. Officers involved in an officer-involved shooting or other incidents that involve a person's bodily harm will turn the BWC over to their supervisor when directed to do so.
2. Commissioned officers will disengage the BWC consistent with the disengagement policy once the scene is secured and upon the arrival of investigative personnel or at the direction of the supervisor.
3. Supervisors will take control of the BWC(s) once the scene is secured and upon the arrival of investigative personnel or at the direction of the patrol lieutenant and require the BWC to be returned to the docking station so that the video can be downloaded and be made available for immediate viewing by authorized personnel investigating the incident.

V. VIEWING DIGITALLY RECORDED DATA

All digitally recorded data created with the BWC are the property of the Peoria Police Department. Dissemination of any digitally recorded data outside the department is strictly prohibited without specific authorization by the chief or his designee.

A. Policy

1. Unauthorized duplicating, deleting, altering, capturing, or disseminating of audio or video from BWC footage is strictly prohibited.
2. Officers assigned a BWC are authorized to view their own recordings utilizing the smart phone mobile application or on the DES using their unique user access credentials from a department computer.
3. There is no expectation of privacy for commissioned officers related to incidents recorded with BWCs. Supervisors may request to review the digitally recorded data from the BWC system to assist in the fulfillment of their investigative and supervisory responsibilities.
4. In general, minor infractions and minor deviations from department policy observed through the review of digitally recorded data will not be subject to the disciplinary process and will be treated as a training opportunity. However, the recordings may be used as evidence in any administrative, judicial, legislative, or disciplinary proceeding.

Recordings shall not be used to discipline officers unless:

- a. A formal or informal complaint of misconduct has been made.
 - b. A use of force incident has occurred.
 - c. The encounter on the recording could result in a formal investigation under the Uniform Peace Officers' Disciplinary Act.
 - d. As corroboration of other evidence of misconduct.
5. Department supervisors are authorized to view recordings on the DES, using their unique user access credentials from a department computer, for the following reasons:
- a. To investigate a complaint against an officer or a specific incident in which the officer was involved.
 - b. To identify videos for training purposes and for instructional use.
 - c. When officers have had a pattern of allegations of abuse or misconduct.
 - d. Recordings will not be used to prepare performance evaluations.
 - e. For any other reason consistent with this directive or as ordered by the chief.

6. When inquiries seeking access to examine or obtain copies of recordings from a BWC are made of the department, Records shall ensure the record is flagged, changing its retention date according to this directive, that the video is produced as necessary, and that the Freedom of Information Act is followed.

All applicable laws including the Freedom of Information Act (FOIA) (5 ILCS 140/1) and exceptions in the Illinois Officer-Worn Body Camera Act (50 ILCS 706/10), will be followed when a FOIA request is made.

VI. RETENTION POLICY

All digitally recorded data created by the BWC will be retained in accordance with the Illinois Officer-Worn Body Camera Act (50 ILCS 706/10).

A. Standard Recordings

1. Recordings made on BWCs must be retained for a period of 90 days unless any encounter captured on the recording has been flagged.
2. Under no circumstances will any recording made with an officer-worn body camera relating to a flagged encounter be altered or destroyed prior to two years after the recording was flagged.
3. If the flagged recording was used in a criminal, civil, or administrative proceeding, the recording will not be destroyed except upon a final disposition and order from the court.
4. In the event of an accidental activation of the BWC during a non-law enforcement activity or in a situation where a reasonable expectation of employee privacy exists, members may submit a request to the technical services lieutenant to restrict viewing of the video. When the lieutenant approves the request, the relevant video will be flagged as restricted viewing only.

B. Training Purposes

Following the 90-day storage period, recordings may be retained if a supervisor designates the recording for training purposes. If the recording is designated for training purposes, the recordings may be viewed by officers, in the presence of a supervisor or training instructor, for the purposes of instruction, training, or ensuring compliance with agency policies.

VII. BWC PROGRAM REVIEW

The BWC Program Coordinator and Command Staff will review this program and this policy on an as needed basis but not less than annually.

This directive provides general guidelines to personnel regarding proper practices and is for internal use only. It is not intended to enlarge an officer's criminal or civil liability in any way, except as to any disciplinary action that might arise. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in an employment related proceeding.



GENERAL ORDER

<u>SUBJECT</u> Electronic Control Device (ECD)	<u>NUMBER</u> 400.96
<u>DISTRIBUTION</u> Commissioned Personnel	<u>EFFECTIVE DATE</u> March 16, 2015
<u>CALEA REFERENCE</u> N/A	<u>NUMBER OF PAGES</u> 3
<u>AUTHORITY</u>	<u>SUPERSEDES</u> 5/8/09; 9/20/04
	<u>OTHER REFERENCE</u> N/A
	Jerry E. Mitchell Chief of Police

I. PURPOSE

To facilitate successful conclusions from incidents that involve combative, non-compliant, armed or violent subjects, the Peoria Police Department will provide an Electronic Control Device (ECD) and relative training, to all commissioned officers. An ECD is designed to cause Neuro-Muscular Incapacitation (NMI) with minimal potential for serious injury or death. The ECD will be yet another tool for officers to use in resolving incidents by a less lethal means, thereby protecting both the officer and others, including the person on whom the ECD is being applied.

II. POLICY

To ensure maximum effectiveness and safety for all involved in its use, the Department will use the ECD by following the recommendations, training, and specifications prescribed by the manufacturer, and by Department policy.

This Order adopts all criteria as outlined in the Use of Force General Order 400.35 and nothing in this policy shall be construed as a higher standard of safety or care in an evidentiary sense to third party claims.

This policy is for Departmental use only and does not apply in any criminal proceeding.

III. DEFINITION

Less lethal force is defined as force used to subdue or render a subject non-threatening with a lower probability of effecting fatal consequences.

The ECD is considered a component of the less lethal force cadre of technology and when used according to Department policies, results in a reduced likelihood of death or serious injuries.

The ECD is an additional tool used by officers to protect themselves and the general public and may be used against subjects that are threatening to actively resist, or **ARE** actively resisting officer(s). Additionally, its' use is warranted when a subject poses an articulable threat of harm to an officer, other person, or himself as in the case of suicide.

An ECD is not intended to replace firearms or other self-defense equipment. It can be used to control dangerous, violent subjects when the use of deadly force does not appear justified or necessary.

IV. PROCEDURES

Upon initial certification and subsequent annual re-certification, officers shall carry and may use the ECD in the performance of their duties. Officers below the rank of Captain that are required to work in the duty uniform shall carry the ECD on the duty belt (utilizing the issued holster), at all times, including off-duty employment. Officers that are assigned regular duty out of uniform, may carry the ECD, but concealed from the view of the public.

The use of the ECD is equivalent to the use of OC spray as placed on the Use of Force continuum as described in General Order 400.35

Each use of an ECD, involving the deployment of an air cartridge or the use of a drive stun, shall require the completion of a police incident report AND a use report.

Upon using the ECD, officers shall ensure that the subject receiving the use is under control and shall monitor the subject for injuries or difficulties with breathing, and if needed, EMS shall be requested.

If the probes from the ECD have imbedded in the subject's neck, face, groin or the breast of a woman (those areas identified in training as "sensitive areas") transportation to a hospital for medical treatment shall be conducted.

If any probes are imbedded in any other area of the body, officers shall utilize the Peoria Fire Department for probe removal and additional medical treatment, if necessary.

Photographs of the probe contact site shall be taken, even if there are no visible wounds and shall be articulated in the officer's incident report. If, due to exigent circumstances, a supervisor determines to NOT have photos taken, the supervisor shall complete a report stating the reasons why.

Completion of the incident report, use report and ECD download shall be completed prior to the end of the officer's shift. Deployed air cartridges shall be placed into evidence using existing procedures.

V. VIDEO

Some ECD's are currently equipped with a video camera that activates during each deployment. All officers shall ensure that the video is properly attached to the ECD if equipped. Each video will be downloaded and viewed by a patrol sergeant. Videos which contain activities that do not confirm to Department policy and procedure shall immediately be brought to the attention of the on-duty patrol lieutenant.

VI. SUPERVISORS RESPONSIBILITIES

The sergeant shall:

1. Respond to the scene of an ECD use to evaluate the incident ensuring that Department policies are followed.
2. Ensure that medical treatment is provided if necessary and that photographs are taken.
3. Ensure that the required reports (incident, use and computer download) are completed prior to the end of the user's shift.

VII. ECD PROGRAM MANAGER

The ECD Program Manager, appointed by the Chief of Police or his designee, shall:

1. Order, receive, inventory and control all data concerning the ECD;
2. Ensure repairs, replacement of all related equipment, and procurement of additional equipment.
3. Ensure the certification of all ECD users, instructors and armors, in conjunction with the Department's Training Unit.
4. Ensure that changes, both positive and negative, to the technology improvements in technology from the manufacturer are brought to the Chief's attention.

VIII. Nothing herein shall preclude the Chief or designee from authorizing exceptions to this Order, as necessary on a case by case basis.

This directive provides general guidelines to personnel regarding Department practices and is for internal use only. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this Department, and then only in an employment related proceeding.